

The Honorable Marc Barreca
Chapter 7
Hearing Date: November 16, 2018
Hearing Time: 11:30 am
Hearing Location: US Courthouse / Seattle, WA
Response Date: November 16, 2018

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

In Re:

DEMETRIUS BERTRAND
DICKERSON, SR.,

Debtor.

Case No. 12-11284

DECLARATION OF MARC ROSENBERG IN
OPPOSITION TO MOTION FOR
PROTECTIVE ORDER

Marc Rosenberg states and declares as follows:

1. I am an attorney for Merchants Credit Corporation (“Merchants”). I am competent to testify and do so from personal knowledge.

2. Debtor Demetrius Dickerson, and Shirley Dickerson, his non-debtor spouse, have brought a motion for sanctions against my client Merchants.

3. I served a deposition subpoena on Ms. Dickerson’s counsel, (Dkt 71-3), and her counsel objected solely on grounds of relevance. (Dkt 71-5). Ms. Dickerson’s counsel proposed resetting the deposition to a few days before the evidentiary hearing, (id.), which I felt would provide no time to obtain the discovery before the evidentiary hearing, and it was far from certain that this Court would continue the evidentiary hearing if a motion were made a mere few days before the hearing date.

4. I made responded to her that I had considered the proposals made below, and did not believe they were feasible for reasons stated. (Dkt 71-5). I proposed instead that, if she

DECLARATION OF MARC ROSENBERG - 1

LEE · SMART

P.S., Inc. · Pacific Northwest Law Offices

1800 One Convention Place · 701 Pike Street · Seattle · WA · 98101-3929
Tel. 206.624.7990 · Toll Free 877.624.7990 · Fax 206.624.5944

1 wished to object to the deposition, that I would agree to a one-month continuance if the hearing
2 date to give her time to bring a motion for protective order, which would give us time to brief
3 the issues, have her motion heard in December, and then, if the motion were denied, we could
4 still still obtain the deposition in time for the evidentiary hearing. (*Id.*). I felt this to be a very
5 reasonable proposal.

6 5. Ms. Dickerson's counsel rejected this proposal, and again suggested that her
7 client's deposition should be re-noted on December 7, just a week before the evidentiary
8 hearing. Ex. 4 at 2. Ms. Dickerson's counsel's email indicated that she believe that the only
9 possible basis to depose Ms. Dickerson would be on damages, and that this hearing was only on
10 liability. *Id.*

11 6. Ms. Dickerson conveniently omits the fact that I responded that "[o]ur planned
12 deposition of Ms. Dickerson has nothing to do with damages" and that "this deposition will be
13 limited to issues related to alleged liability." Ex. 1 at 1. I also reiterated that "We believe that
14 we have been reasonable in offering to stipulate to a one-month continuance of the evidentiary
15 hearing to permit you to bring your motion to quash. The offer remains open." (*Id.*).

16 7. Rather than working with me to reach a solution where we would all have
17 sufficient time to complete motions practice and conduct the discovery needed, Ms. Dickerson
18 then rushed to file her motion for protective order, on shortened time, and without first even
19 requesting a discovery conference.

20 9. The attached exhibits are true and correct copies of the originals:

21 **Exhibit 1.** Transcript of call, dated 04/30/18

22 **Exhibit 2.** Transcript of call, dated 05/03/18

23 **Exhibit 3.** Transcript of call, dated 05/10/18

24 **Exhibit 4.** Email between counsel, November 11-12, 2018
25

DECLARATION OF MARC ROSENBERG - 2

LEE · SMART

P.S., Inc. · Pacific Northwest Law Offices

1800 One Convention Place · 701 Pike Street · Seattle · WA · 98101-3929
Tel. 206.624.7990 · Toll Free 877.624.7990 · Fax 206.624.5944

1 I declare under the penalty of perjury under the laws of the United States of America
2 that the foregoing is true and correct to the best of my knowledge.

3 SIGNED in Seattle, Washington this 15th day of November, 2018.

4 LEE SMART, P.S., INC.

5 By: s/ Marc Rosenberg
6 Marc Rosenberg, WSBA No. 31034
7 Of Attorneys for
8 Merchants Credit Corporation

9 1800 One Convention Place
10 701 Pike Street
11 Seattle, WA 98101
12 (206) 262-8308
13 mr@leesmart.com

14
15
16
17
18
19
20
21
22
23
24
25
DECLARATION OF MARC ROSENBERG - 3

LEE · SMART

P.S., Inc. · Pacific Northwest Law Offices

1800 One Convention Place · 701 Pike Street · Seattle · WA · 98101-3929
Tel. 206.624.7990 · Toll Free 877.624.7990 · Fax 206.624.5944

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CERTIFICATE OF SERVICE

I hereby certify that on the date provided at the signature below, I electronically filed the preceding document with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following individual(s):

Christina L. Henry chenry@hdm-legal.com

James E. Dickmeyer jim@jdlaw.net

I certify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge.

DATED this 11th day of October, 2018.

LEE SMART, P.S., INC.

By: s/ Marc Rosenberg
Marc Rosenberg, WSBA No. 31034
Of Attorneys for
Merchants Credit Corporation

1800 One Convention Place
701 Pike Street
Seattle, WA 98101
(206) 262-8308
mr@leesmart.com

DECLARATION OF MARC ROSENBERG - 4

LEE • SMART

P.S., Inc. • Pacific Northwest Law Offices

1800 One Convention Place • 701 Pike Street • Seattle • WA • 98101-3929
Tel. 206.624.7990 • Toll Free 877.624.7990 • Fax 206.624.5944